

Assembly Bill No. 2143

CHAPTER 269

An act to amend Section 1241 of the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 22, 2014. Filed with
Secretary of State August 22, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2143, Williams. Clinical laboratories: chiropractors.

Under existing law, the State Department of Public Health licenses and regulates clinical laboratories and certain clinical laboratory personnel performing clinical laboratory tests or examinations, subject to certain exceptions, including individuals who perform clinical laboratory tests or examinations approved by the federal Food and Drug Administration for sale as an over-the-counter test kit. Under the Chiropractic Act, enacted by an initiative measure, the State Board of Chiropractic Examiners licenses and regulates chiropractors.

This bill would exempt chiropractors listed on the federal Department of Transportation National Registry of Certified Medical Examiners who perform urine specific gravity, urine protein, urine blood, and urine sugar tests as those tests relate to the National Registry of Certified Medical Examiners, as adopted by the United States Department of Transportation, that are classified as waived clinical laboratory tests under the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA) for the sole purpose of completing the Department of Motor Vehicles medical examination report, if the chiropractor obtains a valid certificate of waiver and complies with all other requirements for the performance of waived clinical laboratory tests under applicable federal regulations. The bill would require a chiropractor who receives an abnormal finding, to refer the applicant to the applicant's primary care physician and surgeon.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 1241 of the Business and Professions Code is amended to read:

1241. (a) This chapter applies to all clinical laboratories in California or receiving biological specimens originating in California for the purpose of performing a clinical laboratory test or examination, and to all persons

performing clinical laboratory tests or examinations or engaging in clinical laboratory practice in California or on biological specimens originating in California, except as provided in subdivision (b).

(b) This chapter shall not apply to any of the following clinical laboratories, or to persons performing clinical laboratory tests or examinations in any of the following clinical laboratories:

(1) Those owned and operated by the United States of America, or any department, agency, or official thereof acting in his or her official capacity to the extent that the Secretary of the federal Department of Health and Human Services has modified the application of CLIA requirements to those laboratories.

(2) Public health laboratories, as defined in Section 1206.

(3) Those that perform clinical laboratory tests or examinations for forensic purposes only.

(4) Those that perform clinical laboratory tests or examinations for research and teaching purposes only and do not report or use patient-specific results for the diagnosis, prevention, or treatment of any disease or impairment of, or for the assessment of the health of, an individual.

(5) Those that perform clinical laboratory tests or examinations certified by the National Institutes on Drug Abuse only for those certified tests or examinations. However, all other clinical laboratory tests or examinations conducted by the laboratory are subject to this chapter.

(6) Those that register with the State Department of Health Care Services pursuant to subdivision (c) to perform blood glucose testing for the purposes of monitoring a minor child diagnosed with diabetes if the person performing the test has been entrusted with the care and control of the child by the child's parent or legal guardian and provided that all of the following occur:

(A) The blood glucose monitoring test is performed with a blood glucose monitoring instrument that has been approved by the federal Food and Drug Administration for sale over the counter to the public without a prescription.

(B) The person has been provided written instructions by the child's health care provider or an agent of the child's health care provider in accordance with the manufacturer's instructions on the proper use of the monitoring instrument and the handling of any lancets, test strips, cotton balls, or other items used during the process of conducting a blood glucose test.

(C) The person, receiving written authorization from the minor's parent or legal guardian, complies with written instructions from the child's health care provider, or an agent of the child's health care provider, regarding the performance of the test and the operation of the blood glucose monitoring instrument, including how to determine if the results are within the normal or therapeutic range for the child, and any restriction on activities or diet that may be necessary.

(D) The person complies with specific written instructions from the child's health care provider or an agent of the child's health care provider regarding the identification of symptoms of hypoglycemia or hyperglycemia, and actions to be taken when results are not within the normal or therapeutic

range for the child. The instructions shall also contain the telephone number of the child's health care provider and the telephone number of the child's parent or legal guardian.

(E) The person records the results of the blood glucose tests and provides them to the child's parent or legal guardian on a daily basis.

(F) The person complies with universal precautions when performing the testing and posts a list of the universal precautions in a prominent place within the proximity where the test is conducted.

(7) Those individuals who perform clinical laboratory tests or examinations, approved by the federal Food and Drug Administration for sale to the public without a prescription in the form of an over-the-counter test kit, on their own bodies or on their minor children or legal wards.

(8) Those certified emergency medical technicians and licensed paramedics providing basic life support services or advanced life support services as defined in Section 1797.52 of the Health and Safety Code who perform only blood glucose tests that are classified as waived clinical laboratory tests under CLIA, if the provider of those services obtains a valid certificate of waiver and complies with all other requirements for the performance of waived clinical laboratory tests under applicable federal regulations.

(9) Those doctors of chiropractic listed on the most current federal Department of Transportation National Registry of Certified Medical Examiners that perform urine specific gravity, urine protein, urine blood, and urine sugar tests as those tests relate to the National Registry of Certified Medical Examiners, as adopted by the United States Department of Transportation, as published by the notice in the Federal Register, Volume 77, Number 77, Friday, April 20, 2012, on pages 24104 to 24135, inclusive, and pursuant to Section 391.42 of Title 49 of the Code of Federal Regulations, that are classified as waived clinical laboratory tests under CLIA for the sole purpose of completing the Department of Motor Vehicles Medical Examination Report, if the doctor of chiropractic obtains a valid certificate of waiver and complies with all other requirements for the performance of waived clinical laboratory tests under applicable federal regulations. If a doctor of chiropractic receives an abnormal finding, the doctor of chiropractic shall refer the applicant to the applicant's primary care physician.

(c) Any place where blood glucose testing is performed pursuant to paragraph (6) of subdivision (b) shall register by notifying the State Department of Health Care Services in writing no later than 30 days after testing has commenced. Registrants pursuant to this subdivision shall not be required to pay any registration or renewal fees nor shall they be subject to routine inspection by the State Department of Health Care Services.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Federal law requires a commercial driver whose current medical certificate expires on or after May 21, 2014, to be examined by a medical professional listed on the National Registry of Certified Medical Examiners who has completed training and successfully passed a test on the Federal Motor Carrier Safety Administration's physical qualification standards. The federal government expects a shortage of medical professionals available to perform those examinations. By allowing chiropractors to perform those examinations immediately, this act will help alleviate the anticipated shortage.